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‘Dooty is Dooty’: Pirates and Sea-lawyers in *Treasure Island*.

Alex Thomson

Compared with ‘pieces of eight’ or ‘sixteen men on a dead man’s chest’, ‘Dooty is dooty’ may not be the first phrase which comes to mind when thinking of *Treasure Island*. Yet Long John Silver’s tautologous watchword is repeated four times in Stevenson’s most famous pirate tale, and the whole narrative is saturated with the discussion of duty. This phrase provides the key to three interlocking problems. It directs us to the book’s break with what Stefan Collini has called the ‘unreflective Kantianism of Victorian moral commonplaces’. The depiction of the pirates in *Treasure Island* holds up a mirror to a society characterised, as Collini puts it, by ‘a tendency to extend the category of duty as widely as possible’; and as Stevenson sketches out in the posthumously-published fragment ‘Lay Morals’, the idea of duty has become both constrictive and debilitating.¹ This underscores the fact that not only Jim’s profit on the adventure, but his very survival, depend on his capacity for *action*, understood to be exactly that which cannot be accounted for within a model of duty based on obligation and calculation. Finally, Stevenson’s development of a literary form which models precisely this relationship highlights what Jacques Derrida describes as the ‘fabular’ mode of existence of the law and provides a basis for rethinking the cultural and political fantasy of the pirate. Introducing ‘Lay Morals’, Stevenson describes communication as a hermeneutic process: ‘the speaker buries his meaning; it is for the hearer to dig it up again’.² In the case of *Treasure Island*, The phrase ‘dooty is dooty’ supplies the crucial missing co-ordinates without which the book remains incomplete, like the duplicate map drawn up by the officers to keep the site of the treasure hidden from their mutinous crew.

I

In a tale characterised not so much by the disappearance of the rule of law as by the proliferation of competing legal and moral frameworks, is it surprising that the pirate crew of *Treasure Island* (1883) should be not merely argumentative but thoroughly litigious? When he inadvertently walks back into the hands of the buccaneers he believes he has already bested, Jim Hawkins is forced to defend himself by conjuring

up the spectre of their future trial: 'if you spare me, bygones are bygones, and when you fellows are in court for piracy, I'll save you all I can' (154). But it rapidly becomes clear that the motley remnants of the pirate band are more interested in running their own kangaroo court. Long John Silver's comment 'First and last, we've split upon Jim Hawkins' (154) becomes uncannily prophetic as the dispute over Jim's fate leads to the arraignment of Silver before the pirate council. The subsequent desecration of Dick's bible to provide the paper on which the Black Spot is inscribed implies the break-up of their association. Stevenson, who follows closely Johnson's account of pirate articles in *A General History of the Pyrates* (1724), must know that to sign up with a pirate band requires 'an Oath taken on a Bible, reserved for that Purpose only'.³ 'It'll do to kiss the book on still, won't it?' asks Dick. 'A Bible with a bit cut out!', Silver replies: 'Not it. It don't bind no more'n a ballad-book'.⁴

Yet this symbolic dissolution is really only an echo of the crew's prior betrayal by the opportunistic Long John Silver while they hold their deliberations: 'I'm on squire's side now' (156). Gulled by Silver into abandoning their attempted deposition, the pirates reinstate the leader they have dared to challenge. Silver's disavowal of the mistakes they attribute to him may be a desperate piece of rhetorical showmanship, but his fundamental rebuke has some validity. This is the second time the crew have challenged Silver's authority: the first presentation of the Black Spot (we now discover) having taken place on landing, and having led to the disastrous — because premature — mutiny. Their insubordination, although entirely in accordance with the rules laid down in the articles, is their downfall. Pouring scorn on their pious belief in due process, Silver reminds us that part and parcel of the degeneracy of *Treasure Island's* pirates is their quaint and irresponsible addiction to a heavily legalistic but formally democratic mode of decision-making. 'You always was brisk for business, and has the rules by heart George, as I'm pleased to see' (159), he comments sarcastically. Or to use Silver's own phrase, his crew turn out to be 'sea-lawyers' (71). A sea-lawyer, as Smyth's *Sailor's Wordbook* (1867) defines it, is:

an idle "long-shorer", more given to question orders than to obey them.
One of the pests of the navy as well as of the mercantile marine.⁵

Although he means the officers and gentlemen on board the *Hispaniola*, who must be murdered to keep their mouths shut, Silver might as well be describing the motley crew who scupper his own mercenary venture.

Revisionist historians have confirmed Stevenson's depiction of piracy as an egalitarian or even democratic affair. But they place a much more positive emphasis on the law-bound nature of the pirate life. Building on a hint thrown out by Christopher Hill that the pirates of the late sixteenth and early seventeenth century might have preserved not only radical ideas but also alternative forms of non-hierarchical social organisation, Peter Linebaugh and Marcus Rediker have argued that 'the pirate ship was democratic in an undemocratic age'.⁶ Their project offers something like a counter-mythology of piracy. Reading contemporary political concerns back into the historical record, they depict the pirate ship as not only egalitarian but 'multinational, multi-cultural and multi-racial'; the pirates of the Golden Age had 'self-consciously built [...] a subversive alternative to the prevailing ways of the merchant, naval and privateering ship and a counterculture to the civilization of Atlantic capitalism with its expropriation and exploitation, terror and slavery'.⁷ The formal equality of the pirate council, and the guaranteed autonomy of the pirate, over whom the Captain's command was absolute only in the heat of battle, are a reminder of an earlier age when most seamen were equal partners in the profits of an expedition, rather than wage-labourers, and a potent counter-weight to the ill-treatment of sailors by many ships' officers in both navy and merchant marine.

Yet if Stevenson's pirates are democratic, it is in the sense of mob rule current at the time of which he is writing, and might rather be ranked alongside the contemporary complaints cited by the revisionists that 'there is so little Government and Subordination among [pirates], that they are, on Occasion, all Captains, all Leaders'.⁸ Craven, intemperate and bibulous, Stevenson's pirates are obsessed with their own pirate codes and conventions: 'This crew has its rights like other crews' comments one unnamed marauder (172). The contrast with Long John Silver is particularly striking. Where Billy Bones was struck down by apoplexy on receipt of the Black Spot back in the Admiral Benbow Inn, as if a single piece of paper embodied the full force of the law, Silver seems to be not so much exempt from the strictures of the pirates' code as immune to them. Like much of Stevenson's work, *Treasure Island* is intensely aware of its own literary appropriation of oral narration, and literacy becomes the figure of the boundary between the pirates' submission to the law and Silver's overcoming of it.⁹ 'Ah! 'Deposed'—that's it, is it?' asks Silver when he reads what is written on the Black Spot (159), but as Jim turns this 'curiosity' over in his hands he sees that the word has been misspelled: 'Deposed'

(162). That their hastily-assembled document is already disintegrating confirms the insubstantial nature of the pirate's access to textual authority. Jim has it beside him at the time of writing but 'not a trace of writing now remains beyond a single scratch, such as a man might make with his thumb-nail' (162).

Literate, cunning and 'a man of substance' (39), Silver's control of language is directly linked to his ability to dissemble, and in particular, to manipulate the distance between pirate myth and pirate reality. Not only can Silver change sides at will, but he is so far in appearance from what is already (by the 1750s, presumably) pirate legend that Jim is so fully taken in at Bristol as to fail to identify him with the phallic horror haunting his dreams ('a monstrous kind of creature who had never had but the one leg, and that in the middle of his body' (13)). Like those pirate ships which would sail under innocent colours before running up the skull and crossbones when their unsuspecting victim was close at hand, Silver's true nature is hidden beneath the surface: 'he was too deep, and too ready, and too clever by me [...] I would have gone bail for the innocence of Long John Silver' (54-5). Silver is fluent in the languages of the pirate and of the gentleman: too clean to be the one-legged figure of Jim's dreams, and on the voyage home no longer a murderous villain but 'the same bland, polite, obsequious seaman of the voyage out' (203). Silver's savings, remarked several times in the novel, also distance him from his mess-mates. Ben Gunn, who spends a thousand pounds within twenty days, is more typical of a class whose mythic propensity to bury their treasure is belied by the historical account of their profligacy, although some certainly managed to make fortunes, and others regularly dispatched money home to wives and family.¹⁰

Is Silver even a pirate in Stevenson's social diagram? His relationship to the outlaws amongst whom he lives is more akin to that of the aristocratic James Durie in Stevenson's later novel *The Master of Ballantrae* (1889). Silver was quartermaster for Flint's ship, as Durie is for Captain Teach's. But it has been suggested by historians that the quarter-master may often have held the real power on a pirate ship, and again Stevenson concurs, hinting that even Flint was afraid of Silver (69) and we might treat Silver's disavowal of his leadership accordingly: "No, not I," said Silver. "Flint was cap'n'" (67). As quartermaster, the Master faces Teach down on more than one occasion and finally bests him with curt arrogance and a shoddy joke, in the style of the late twentieth-century action-movie hero: 'Heretofore you have been called Captain Teach, but I think you are now rather Captain Learn'.¹¹ Silver and the Master

share more than circumstantial traits, however: both have a propensity for extreme violence when necessary, but more disturbingly, a charming manner and a treacherous eloquence which compels at least respect, and at most devotion, in their acquaintances.

Significantly, Ballantrae also combines the roles of outlaw and lawgiver. For it is at his instigation that 'laws were passed in imitation of a pirate by the name of Roberts' on board Teach's ship.¹² The reference is to Johnson's history, but the latter describes the articles as more or less ubiquitous in the world of the maritime marauders: 'the principal Customs, and Government, of this roguish Commonwealth; which are pretty near the same with all Pyrates'.¹³ Stevenson turns typical pirate governance into a device of Ballantrae's (who insists on maintaining Teach as Captain for the same reason) to better manipulate his fellow rogues. Both the Master and Long John Silver appear to subject themselves to pirate law, but also to flaunt it or manipulate it at will. This ambiguous position is consistent with both their distinction amongst the pirates themselves — *with* them perhaps, but not *of* them — and Stevenson's own anxieties, evident in his essay 'The Day After Tomorrow', about the threat to liberty posed by the combination of levelling and authoritarian tendencies in that 'stealthy change which has come over the spirit of Englishmen and English legislation' which he names 'Socialism'.¹⁴ 'Lay Morals' suggests that Stevenson's apparent rejection of duty in *Treasure Island* would be continuous with a notion of freedom conceived in terms of the alternative between conformity and manhood.

Stevenson's individualism has proved hard to for recent critics to stomach; like the historian, those literary hermeneuts who have come looking for buried political treasure are mostly interested in his work as representing a 'reality' about the rights and wrongs of which they are already certin. In *Empire Boys* Joseph Bristow remarks on the anxiety of late nineteenth-century critics concerning popular fiction, yet seems to perpetuate that anxiety, albeit from a different political perspective, when he depicts such writing as right-wing and imperialistic in orientation. He suggests that 'the Robinsonade is modified, particularly in Stevenson's hands, into a kind of popular romance highly admired by conservative apologists for the novel'.¹⁵ *Treasure Island* is damned by comparison with Stevenson's own subsequent work, and in particular with *The Beach of Falesá* (1893) which Stevenson himself described as 'the first realistic South Sea story', complaining 'everybody else who has tried, got carried away by the romance'.¹⁶ But it is by no means apparent that romance and realism are

mutually exclusive terms in Stevenson's work, as an anonymous reviewer who praised the 'healthy realism' of *Treasure Island* seems to appreciate: '[the pirates'] profession is not set forth in a dangerous halo of romance'.¹⁷ Stevenson sees a combination of the 'realistic and ideal' as the fundamental principle of successful representative art, and in his essays on romance, his animus is directed largely against naturalism, which he sees as burdening the clear delineation of reality with an unhealthy cult of facts.¹⁸ Because of, rather than despite, its romance form we should expect to find the book that Robert Fraser describes as the 'founding text in the revival of quest romance' as a confrontation with rather than an escape from reality.¹⁹

II

His essay on Victor Hugo plays the same founding role for Stevenson the man of letters that *Treasure Island* does for the novelist. Written when he was only 24, as he acknowledges in the Preface to *Familiar Studies of Men and Books*, this essay, which first found him the patronage of the *Cornhill* magazine, sets out in its essentials the theory of the novel which will be expanded in his later, better-known essays. Writing of Hugo, Stevenson argues that while 'Romance is a language in which many persons learn to speak with a certain amount of fluency [...] there are few who can ever bend it to any practical need, few who can ever be said to express themselves in it'. Hugo is one of the few who can establish a moral significance as the essence of his romances. But this moral is an 'organising principle'; Stevenson is not interested in "the novel with a purpose", 'the model of incompetence' in which 'the moral [is] clumsily forced into every hole and corner of the story, or thrown externally over it like a carpet over a railing' (147).

Yet if a conception of moral purpose guides both Stevenson's theory and practice of romance, *Treasure Island* has certainly struck its critics as morally ambiguous. The novel puns extensively on the terminological confusion between the gentry and the pirates, and as Naomi Wood points out: 'the reactions of gentlemen of fortune and gentlemen of fortune to the idea of seven hundred thousand pounds of buried treasure is strikingly uniform'.²⁰ As in the case of Silver, authority in the novel is bestowed not by one's place in social or legal hierarchies so much as by the ability to exploit other men's propensity to deference. In the early chapters the authority of Squire Trelawney and Doctor Livesey seems to be merely formal, and once at sea it is

distinctly precarious. Captain Smollett is alternately practical and comic in his devotion to duty, and his punctilious raising of the Union Jack over the stockade serves only to draw the pirate' cannon-fire.

The central question of *Treasure Island* might be posed in the following way: what does it mean to do one's 'dooty'? But the prime feature of 'dooty' being that it requires no other justification, it just *is* one's duty – Silver repeats 'dooty is dooty' as if it explained itself tautologously – there is no clear answer. Does dooty mean obedience to military, naval or legal procedures? Or conformity to pirate codes? Dooty is what binds Silver and his piratical comrades not only to their allotted tasks on board ship under Smollett's command, but also to their own lore and edicts: 'the crew has tipped you the black spot in full council, as in dooty bound; just you turn it over, as in dooty bound, and see what's wrote there' (175). Yet if it seems as if not only good men but also pirates are hemmed in, bound up in their dooties, it should also become apparent that 'dooty' may not mean that much after all. 'Dooty' is what the honest seaman Tom dies rather than betray (89); yet Silver and Jim seem to change sides at will: 'Dooty' is what Silver comes back to when he returns to Smollett's command (202). 'Dooty' should be absolute, or it is nothing, not binding after all. But if a Bible can become like a ballad-book, so we might see that duty is also variable, or at the very least context-specific.

What Jim learns from Silver is the priority of action, considered as that which cuts through 'duties'. Where his litigious crew is really at fault, concludes Silver, is 'you hain't got the invention of a cockroach' (162). It is the power of action as a form of tactical invention, closely linked to command over language, that marks Jim's accession to maturity in the novel, and it is the excess of action over duty that the novel confirms through its narrative structure and organisation. That action breaks with moral order is the key not only to the novel's own 'moral' organisation, but to Stevenson's conception of romance, and his life-long struggle with the authority of Scott's novels. As he comments in the Hugo essay, what separates Scott from Fielding is 'a sense of the subtle influences that moderate and qualify a man's personality; that personality is no longer thrown out in unnatural isolation, but is resumed into its place in the constitution of things'.²¹ (This will later be developed in 'A Gossip on Romance' into the difference between the novel of character and the novel of adventure.) The romance of adventure is that in which man no longer appears

as wholly self-willed: a 'change in the manner of regarding men and their actions', which is not only the formal, but the thematic or moral truth of *Treasure Island*.

The novel pivots on three moments of what Jim describes as the 'mad notions that contributed so much to save our lives', the first of which comes when Jim slips over the side of the *Hispaniola* to go ashore with the pirates (84). It is a sudden thought which occurs to him, and which he regrets almost instantly. But it turns out to have been for the best. The 'second folly, far worse than the first' comes when he abandons his companions in the blockhouse (133). This is rather more premeditated, as Jim has the opportunity to take provisions and weapons. His third notion is to cut the *Hispaniola* adrift, which is clearly associated by Jim with his first two acts of 'truancy' (135). Hemmed in by competing notions of obligation, Jim's agency constitutes itself through the flagrant transgression of all protocols and codes and Jim feels these actions to be derelictions of duty, fearing that the accusation of desertion might be levelled at him with some justice.

Stevenson proposes one interpretation of this structure. Livesey's response when he hears of Jim's adventures is: 'there is a kind of fate in this [...] every step it's you that saves our lives' (184). Equally, it is providence to which Benn Gunn attributes his place on the island, a nod from Stevenson to Defoe (93). The challenge of *Robinson Crusoe* is that the book could convincingly be either what it appears to be, a primer in providential religion, or a dissection of religious belief as compensatory delusion. Stevenson would have relished this irony, and it seems that he has laid the same trap both for Benn Gunn and for Jim. His actions, which he cannot explain, appear in retrospect as if they had been fated all along. Their success justifies what are at the time derogations of duty. Jim's own mutiny and piracy are nothing of the sort, because they turn out to be heroic – having been proved profitable – by the subsequent turn of events.

This complication of the relationship between temporality and legitimacy can be linked to a common feature of pirate life – and death – suggesting that the strongest insight into pirate history in Stevenson's book comes from its structural characteristics rather than from surface details. A pirate's return is always uncertain because of the suspended legality of the crew's actions while on the high seas. It is often political circumstances in their home port which will determine whether what was licensed on departure will turn out to have been tolerated on return. In an uncertain legal and political context the pirate's real dilemma, as Jim discovers, is that

actions can only be approved or condemned after the event, while decisions have to be taken in the suspension of the applicable laws. Silver is the only member of the cast to show an explicit awareness of this, as he faces down the challenge of the Black Spot, overturning legal jurisdiction with the interpretative power of persuasion which is always called upon to supplement mere 'dooty'. Jim's moments of folly become legitimate decisions after the event, through a process of post facto rationalization which obliterates their irrational and contingent foundations.

In *The Human Condition* Hannah Arendt gives a description of the structure of action which perfectly characterises the moral of *Treasure Island*, once we recognise that the moral lies in the excess of action over ordinary morality, or duty:

To act, in its most general sense, means to take an initiative, to begin [...]. It is in the nature of beginning that something new is started which cannot be expected from whatever may have happened before.²²

In other words, an action needs to be distinguished from the following of a rule: an action is inventive, it depends upon the suspension of any possible condition by which it could be predicted or determined. It follows that action is precisely what a conception of duty cannot teach us. Like Stevenson, Arendt specifically links action to speech: 'with word and deed we insert ourselves into the human world'.²³ Most strikingly of all, she links action to storytelling, the narration by which the agent is retrospectively constituted: 'stories, the results of action and speech, reveal an agent, but this agent is not an author or producer'.²⁴ The implied distinction is between *praxis* and *poesis*, between an action which inaugurates, and a making according to some particular end. Jim can tell the story of his actions, but cannot become their author: this is the significance of his retrospective narration, beyond its testament to his literacy. Providence, Arendt suggests, is one of those terms by which men 'tried to solve the perplexing problem that although history owes its existence to men, it is still obviously not made by them'.²⁵

The link between speech and action is confirmed in Stevenson's own account of the genesis of *Treasure Island*: 'The beginner must have a slant of wind, a lucky vein must be running, he must be in one of those hours when the words come and the phrases balance of themselves – even to begin'.²⁶ Yet nothing is certain until the book is done: 'And having begun, what a dread looking forward is that until the book shall be accomplished! For so long a time the slant is to continue unchanged, the vein to keep running; for so long a time you must hold at command the same quality of style;

for so long a time your puppets are to be always vital, always consistent, always vigorous' (192). Reworking the traditional topoi of inspiration in a maritime idiom which also suggests something like gold mining, Stevenson stresses that only the end will ever justify the audacity of beginning.

So develops an easy equivalence between the act of writing and the actions of the romance hero. Stevenson's numerous acts of literary piracy in *Treasure Island* are recounted in his essay in great detail, but they were already acknowledged in the prefatory poem which captures the author's place alongside 'Kingston, or Ballantyne the brave / Or Cooper of the wood and wave' as tellers of 'the old romance' (7). To begin is an act of style: the inscription of one's unique presence amongst one's elders and betters, which can only be an act of unlicensed violence, the staking of a claim that can only be proved through its own success. This is frontier work, or not to put too fine a point on it, piracy. Through a paradox that Heidegger explores in his essay on the work of art, only the existence of the artwork bestows on its creator that title which alone could have authorized beginning in the first place.²⁷ That writing's legislative dimension exceeds its representational function is also one of the lessons Jim must learn. What he also finds out is that such literary self-creation is necessarily violent, and deeply anarchic. The foundation of the law depends on the murderous suspension of the law. Whereas in *Peter Pan* Barrie keeps the pirates at a reassuring distance (Never Land) and offers us the choice between growing up and submitting to the law – returning with Wendy – or remaining exiled from it forever with Peter, Stevenson teaches us that to become oneself requires the contravention of social custom. The writing and reading of literature becomes an image of that making and remaking of the law on which *bildung* depends, and which runs athwart the discourse of 'duty'.

III

'The instant of decision is madness': Jim's transition to adulthood can be helpfully set alongside Jacques Derrida's citation of Kierkegaard, in both early and more recent texts.²⁸ For there to be a decision, Derrida argues, there must be impossibility. If I did not have to choose between two equally persuasive or compelling actions, if I was not faced with a dilemma which could not be referred to any particular tribunal or law to determine the correct course of action, I would not be called upon to make a decision.

So we are only really speaking of a decision when there is a situation which cannot be overcome without something like Jim's moment of madness. Such a decision, which can only occur in the suspension of any and every law which might determine its outcome, marks the invention, the "mystical foundation", of a new law, in setting a course by which one can steer. But it can only be seen as such afterwards: since in the decision there are no criteria against which to judge it, and if it could be anticipated in advance it would be the unfolding of a programme rather than the taking of a decision. Derrida suspends the possibility of simply identifying freedom with action, on which Arendt's account depends: 'the decision makes the event, but it also neutralizes this happening that must surprise both the freedom and the will of every subject'.²⁹

Jim's more or less impulsive breaks with what he knows to be his duty can be seen, with the hindsight he himself employs in telling his story, as such inventions of the law. But what stands out, and this is why Long John Silver is so clearly the figure best equipped to guide the lad, is that the founding of the law takes place in a constitutive moment of illegality. The old law must be broken, the new law does not yet apply, and so the moment of law-making is a kind of disruptive interzone. *Treasure Island*, in which the outcomes of Jim's actions are deferred until the plot resolves and one side or other wins, prolongs and sustains this moment. Derrida comments: 'In the founding of the law or in its institution, the same problem of justice will have been posed and violently resolved, that is to say buried, dissimulated, repressed. Here the best paradigm is the founding of the nation-states or the institutive act of a constitution'.³⁰ Derrida's essay 'Declarations of Independence' first cast this as a performative structure: the signatories of the United States Constitution are not yet legally the representatives of the body they are claiming to bring into being. This does not invalidate the Constitution, but it may require us to rethink our notion of legality somewhat.³¹

Where *Treasure Island* specifically anticipates Derrida is in its romance form. In his essay on Kafka's 'Before the Law', Derrida argues that the mode of existence of the law must be fabular. Because the law denies its own historicity, it presents itself as eternal, it cannot be accounted for on the basis of a history or a legal anthropology. Of Freud's hypothetical foundation of the law in the killing of the primal father, Derrida comments 'this pure and purely presumed event nevertheless marks an invisible rent in history. It resembles a fiction, a myth, or a fable'.³² Situated before (in relation to)

the law, we cannot conceive or account for a time before the law, and therefore an origin of the law. The law's origin is neither ahistorical, nor is it available to factual reconstruction: the law belongs to fiction.

If we accept the account I have offered of the connection between action and romance, and of Stevenson to Derrida, it should become clear that the political lesson offered by *Treasure Island* runs deeper than that of the revisionists. As historians, they rely on the possibility of distinguishing the 'romance' from the 'reality' as David Cordingly's popular pirate history promises.³³ But this distinction is put into question in Stevenson's model of the literary artwork. Replying to Henry James in 'A Humble Remonstrance', Stevenson suggests that James's essay should really have been called 'the Art of Narrative'. Like Scott, Stevenson rejects the moralising distinction between novel and romance, which derives from contrasting their relationships to 'reality'. The final lines of the prefatory poem — 'may I / And all my pirates share the grave / Where these and their creation lies!' (7) — collapse the distinction between author and character, and glorifies the romancers themselves as buccaneers. In doing so Stevenson turns *Treasure Island* itself into a figure of literature, conceived as an inventive act of piracy committed against 'history' understood as linear, sequential, progressive. The flora of the island are Californian rather than Caribbean; but accuracy of correspondence to a specific real topography or history is by the by. After all, the story of the book, as opposed to the story in the book, begins with Stevenson's founding act of cartographic invention.³⁴

When it comes to pirates, *Treasure Island* does conform to a relatively consistent historical framework in a way which *The Master of Ballantrae*, a more obvious historical allegory in its concern with the effects of the '45, is not: Teach, died in 1718, according to the same account from which Stevenson draws his description of the pirate. However this consistency is beside the point — not least because a 'realistic' reading of *Treasure Island* must fall victim to such challenges as Ritchie's response to the legend of Captain Kidd's treasure: 'the idea of burying loot on a tropical island would have struck [the men who turned to piracy] as insane'.³⁵ So although licensed to do so by the conventional assurance of its fictional status, romance for Stevenson does not mean an indifference to history, nor does it mean a story located in some ahistorical mythic realm. Rather, by exposing the mechanisms of the law, *Treasure Island* can call into question the legislative distinction between history and fiction which seeks to rule one version of the pirate in and another out.

The romance is not anti-realist, and it is entirely consistent for Stevenson to be praised for both his romance and his realism: but romance is stronger than realism, in being able to challenge the forms of narrative legitimation which seek to demarcate fact and fiction. The centrality of Johnson's *General History* to both Stevenson's work – he had a copy of the book sent out to him while he was writing *Treasure Island* – and to the revisionist project suggests both the intense ambivalence of the documentation of pirate life and its scarcity. That this text lies at the origin of all fictional and historical depictions of pirates suggests that it can be consistently judged to belong to neither one nor the other mode of story-telling.

The mythology of the pirate is based on a simple topological model. As exotic outsider, or as drunken hoodlum, the pirate derives his status from being outside or beyond the law, a situation doubled in the case of the notorious female pirates. The revisionist model offered by Linebaugh and Rediker does not put this into question, but takes pirate democracy to be the figure of a virtuous and self-organising community bound only by its own conventions, enforced socially, rather than via government. For Linebaugh and Rediker pirate democracy is set up outside or beyond the law. It may impose its own rules – indeed this is what constitutes it as a form of society rather than merely the anarchy as which it is reviled – but it is defined in opposition to majority state power. Pirates are exceptions, the existence of which proves the rule about the rest of maritime venture in its unredeemed capitalist form. This is to reverse our perspective on piracy: no longer simply illegal, illegitimate and outlawed, being outside of the law becomes the very virtue of the pirate. Excepting themselves from illegitimate frameworks of legality confers a legitimacy on their actions. The historians presume a topological model of legality based on a simple opposition in which the majority fall within the law, but a minority fall without; their analysis of pirate democracy inverts our conventional distribution of value within the schema (an inversion whose affective path has already been mapped in the popular romance of the heroic swash-buckler) rather than threaten the overall schema.

The consequences of these observations are striking. The lesson of *Treasure Island* is clearly not simply either the value of abiding by the law, since Jim's success depends on breaking rules, or the virtue of transgression, since Jim positions himself on the side of law, against the pirates. What the book opens up instead is an image of the law which is not governed by the topological figure of inside / outside. The performative and illegal foundation of legality which Jim discovers suggests that the

border between legitimate and illegitimate passes through the innermost parts of the law itself, indeed bisects the law at its origin. The pirates are, as Stevenson has shown us, as subject to the law of the law as everyone else, however debatable and negotiable their particular laws might be. The pirate can no longer be opposed to the law-abiding citizen as either simply the degenerate and irresponsible law-breaker; but nor can the inverse argument be sustained that he or she is the virtuous political opponent of an illegitimate legality. What the figure of the pirate exposes, and what Jim learns to manipulate, is that the origin of the law lies in an improvisational violence, a violence which can never be acknowledged or accounted for by the law. Stevenson's account is anarchic: not in the sense of opposing the vigour of chaos to the entropy of order; nor in the political celebration of an alternative vision of human co-operation and autonomy, freed from oppressive authority; but in exposing the void at the origin of the law, an exposure pre-eminently of the order of romance.

¹ Stefan Collini, *Public Moralists: Political Thought and Public Life in Britain 1850-1930* (Clarendon: Oxford, 1991) 63, 98. 'Lay Morals'

² 'Lay Morals' [REF].

³ *A General History of the Pyrates*, ed. Manuel Schonhorn (London: Dent & Sons, 1972) 213. Although Schonhorn ascribes authorship to Daniel Defoe, scholarly opinion no longer supports this attribution.

⁴ Robert Louis Stevenson, *Treasure Island*, ed. Wendy Katz (Edinburgh: Edinburgh University Press, 1998) 178.

⁵ "Sea Lawyer", Def. 2, *The Oxford English Dictionary*, 2nd edn., 1989.

⁶ 'Radical Pirates', *Collected Essays of Christopher Hill*. Volume 3, (Brighton: Harvester, 1986) 161-187; Peter Linebaugh and Marcus Rediker, *The Many Headed Hydra: the Hidden History of the Revolutionary Atlantic* (London: Verso, 2000) 162,

⁷ Ibid. 164, 172.

⁸ Ibid. 163.

⁹ See Penny Fielding, *Writing and Orality: Nationality, Culture and Nineteenth-Century Scottish Fiction* (Oxford: Clarendon Press, 1996).

¹⁰ Robert C Ritchie, *Captain Kidd and the War Against the Pirates* (Cambridge, MA: Harvard University Press, 1986) 119-121, 229-230.

¹¹ Robert Louis Stevenson, *The Master of Ballantrae*, ed. Adrian Poole (Harmondsworth: Penguin, 1996) 46.

¹² Ibid, 41.

¹³ *A General History*, 213.

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¹⁵ Joseph Bristow, *Empire Boys: Adventures in a Man's World* (London: Routledge, 1991) 93.

¹⁶ Cited by Bristow, 122.

¹⁷ Paul Maixner, ed., *Robert Louis Stevenson: The Critical Heritage* (London: Routledge, 1981) 128. Harvie also suggests that, like other criminals in Stevenson, his pirates are 'realistically drunken and repellent' (119).

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- ¹⁸ Robert Louis Stevenson, 'A Note on Realism', vol. XXIV Waverley Edition (London: Waverley Book Co., 1925) 78. See also 'A Gossip on Romance' and 'A Humble Remonstrance' in *Memories and Portraits* (Glasgow: Philip Drew, 1990).
- ¹⁹ Robert Fraser, *Victorian Quest Romance: Stevenson, Haggard, Kipling and Conan-Doyle* (Plymouth: Northcote House, 1998) 26.
- ²⁰ Naomi Wood, 'Treasure Island and the romance of money' *Children's Literature* 1998, 26, p.61-85, 69.
- ²¹ 'Victor Hugo' 135.
- ²² Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1998) 177-8.
- ²³ Ibid. 176.
- ²⁴ Ibid. 184.
- ²⁵ Ibid. 185.
- ²⁶ 'My First Book', 192.
- ²⁷ Martin Heidegger, 'The Origin of the Work of Art', *Pathmarks* (Cambridge: Cambridge University Press).
- ²⁸ Jacques Derrida, *Writing and Difference*, trans. Alan Bass (London: Routledge, 1981) 30; 'Force of Law, the "Mystical Foundation of Authority"', trans. Mary Quaintance, Drucilla Cornell et. al. eds., *Deconstruction and the Possibility of Justice* (New York: Routledge, 1992), 26
- ²⁹ *Politics of Friendship* (London: Verso, 1997) 68.
- ³⁰ Force of Law, 24.
- ³¹ The connection to *Treasure Island* may not be wholly anachronistic. John D Moore remarks that 'Stevenson's notion of narrative is intriguing in its anticipation of speech act theory', while Derrida himself links Austin back to Nietzsche in *Limited Inc.* 'Emphasis and Suppression in Stevenson's *Treasure Island*: Fabrication of the Self in Jim Hawkins' Narrative', *CLA Journal*, 34 (June 1991), 436-52, 439.
- ³² Jacques Derrida, 'Before the law', trans. Avital Ronell and Christine Roulston, Derek Attridge ed., *Acts of Literature* (London: Routledge, 1992) 199.
- ³³ David Cordingly, *Under the Black Flag: The Romance and the Reality of Life among the Pirates* (London: Abacus, 1996).
- ³⁴ Elaborated in 'My First Book'; the story is continued in 'The Persons of the Tale', a metafictional encounter between Smollett and Silver.
- ³⁵ Ritchie, 229-30.